

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0075

HOUSE TAXATION ENGROSSED NO. **HB 1009** - 2/17/2009

Introduced by: The Committee on Taxation at the request of the Department of Revenue and Regulation

1 FOR AN ACT ENTITLED, An Act to require certain tax refund claims for construction projects
2 and certain documents and records in support of tax refund claims for construction projects
3 to be filed within certain time periods.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 10-45B-8 be amended to read as follows:

6 10-45B-8. Any person issued a permit pursuant to this chapter shall submit a return claim
7 for refund to the department no more frequently than on or before the last day of each month and
8 no less frequently than on or before the last day of each month following each calendar quarter.
9 The secretary shall determine and pay the amount of the tax refund within thirty ninety days of
10 receipt of the return claim for refund. Ninety-five percent of the amount of refund shall be paid
11 to the claimant in accordance with §§ 10-59-22 and 10-59-23, and five percent shall be withheld
12 by the department. No interest ~~shall~~ may be paid on the refund amount. If electronic funds
13 transfer is available to the secretary, the secretary shall pay the refund by electronic funds
14 transfer if requested by the claimant.



Section 2. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

No claim for refund pursuant to this chapter may be considered by the department if the claim for refund is received after the following applicable time period:

- (1) Twelve months after the thirty-six month time period of § 10-45B-4;
- (2) Twelve months after the thirty-six month time period of § 10-45B-4.1 for projects with project costs of sixty million dollars or less;
- (3) Twelve months after the seventy-two month time period of § 10-45B-4.1 for projects with project costs of more than sixty million dollars; or
- (4) Twelve months after the extended time period of § 10-45B-4.1 for projects that have obtained a time limit extension from the secretary.

Moreover, any such claim is barred from any future refund eligibility.

Section 3. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as follows:

No document or record in support of any claim for refund may be considered by the department if the documents or records in support of any claim for refund are received after the following applicable time period:

- (1) Twelve months after the thirty-six month time period of § 10-45B-4;
- (2) Twelve months after the thirty-six month time period of § 10-45B-4.1 for projects with project costs of sixty million dollars or less;
- (3) Twelve months after the seventy-two month time period of § 10-45B-4.1 for projects with project costs of more than sixty million dollars; or
- (4) Twelve months after the extended time period of § 10-45B-4.1 for projects that have obtained a time limit extension from the secretary.

1 Moreover, any such document or record is barred from any future consideration.

2 However, if the department requests any additional document or record from the project
3 owner after a review of the claim for refund, and the request is made after the applicable time
4 period provided by this section has expired, the project owner has sixty days to provide the
5 requested document or record. No document or record received after this sixty-day period may
6 be considered by the department. Moreover, any such document or record is barred from any
7 future consideration.

8 Section 4. That chapter 10-45B be amended by adding thereto a NEW SECTION to read as
9 follows:

10 The provisions of section 2 and section 3 of this Act apply to refunds for projects only if the
11 permit was applied for after June 30, 2009.